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| <b>TRANSMITTAL FORM</b><br><br>(to be used for all correspondence after initial filing) | Application Number   | 10/815024-Conf. #9189  |                 |
|   | Filing Date          | March 31, 2004         |                 |
|   | First Named Inventor | Raoul J. Belleau       |                 |
|   | Art Unit             | 2829                   |                 |
|   | Examiner Name        | R. M. Kobert           |                 |
| Total Number of Pages in This Submission  | 4                    | Attorney Docket Number | T0529.70016US00 |

| ENCLOSURES (Check all that apply)   |   |   |
|---|---|---|
| <input type="checkbox"/> Fee Transmittal Form                             | <input type="checkbox"/> Drawing(s)   | <input type="checkbox"/> After Allowance Communication to TC                            |
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| <input type="checkbox"/> After Final                                      | <input type="checkbox"/> Petition to Convert to a Provisional Application               | <input type="checkbox"/> Proprietary Information  |
| <input type="checkbox"/> Affidavits/declaration(s)                        | <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address | <input type="checkbox"/> Status Letter  |
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| <input type="checkbox"/> Certified Copy of Priority Document(s)           | <input type="checkbox"/> Landscape Table on CD  |   |
| <input type="checkbox"/> Reply to Missing Parts/Incomplete Application    |   |   |
| <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53 |   |   |
| <b>Remarks</b>  |   |   |

| SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT |                               |          |        |
|--|-------------------------------|----------|--------|
| Firm Name                                  | WOLF, GREENFIELD & SACKS P.C. |          |        |
| Signature                                  |                               |          |        |
| Printed name                               | Edmund J. Walsh               |          |        |
| Date                                       | May 24, 2006                  | Reg. No. | 32,950 |

|  |   |
|--|---|
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| I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as First Class Mail, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. |   |
| Dated: May 24, 2006  | Signature: <u>Priscilla Calder</u> (Priscilla Calder) |



Docket No.: T0529.70016US00  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Raoul J. Belleau  
Serial No.: 10/815024  
Confirmation No.: 9189  
Filed: March 31, 2004  
For: METHOD OF MEASURING DUTY CYCLE  
Examiner: R. M. Kobert  
Art Unit: 2829

**Certificate of Mailing Under 37 CFR 1.8(a)**

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as First Class Mail, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: May 24, 2006

*Vanille Solder*

**RESPONSE TO RESTRICTION REQUIREMENT**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In response to the Restriction Requirement mailed from the United States Patent and Trademark Office on April 24, 2006, Applicant hereby requests entry of the following election.

**Remarks**

Applicant hereby elect species identified as (a) in the Office Action of April 24, 2006. Species (a) contains claims 1-10, 18 and 22-24. The election is made with traverse.

Applicant respectfully disagrees that the Amendment filed March 10, 2006 has changed the claims so that they relate to different species. In the prior Office Action, claims 11 and 19 were objected to for depending from a rejected base claim. However, the Examiner acknowledged that those claims contain allowable subject matter. In response to the prior Office Action, claims 11 and

19 were reformatted as independent claims. The Examiner has cited no new prior art and the conclusion that these claims are allowable expressed in the Office Action of December 12, 2005 should still apply. As Applicant pointed out, claims 11 and 19 are not word-for-word identical to the claims as previously pending, but the Examiner provides no reason why minor differences in wording should alter the conclusion that those claims are allowable or otherwise justifies restriction of the claims. Rather than being restricted out, claims 11 and 19 should be allowed for the reasons identified by the Examiner in the Office Action of December 12, 2005.

As to claim 19, that claim previously depended directly from claim 1. As rewritten in independent form, claim 19 contains substantially the same language that appeared in claim 1. However, in the Amendment filed March 10, 2006, minor clarifying amendments were made to the second and third lines of element (b) of claim 1. When the text of claim 1 was incorporated into claim 19 to present it in independent form, those clarifying amendments were also included in claim 19. Consequently, as pointed out by Applicants in response to the last Office Action, claim 19 is not word-for-word identical to the claim in the form previously indicated to be allowable. However, the difference between claim 19 as it is now presented and claim 19 as indicated to define allowable subject matter are the minor clarifications made to lines 2 and 3 of element (b) in claim 1. The Examiner points to no reason why these minor clarifications should alter the prior conclusion that claim 19 defines allowable subject matter.

Further, because the differences between claim 19 as it is now presented and claim 19 as indicated to define allowable subject matter have also been incorporated into claim 1, those differences cannot support an assertion that, because of the amendment, claims 1 and 19 now define different species. Accordingly, it is respectfully requested that the restriction requirement as to claim 19, and those claims that depend from it, be withdrawn.

As to claim 11, claim 11 was also indicated to define allowable subject matter in the Office Action of December 12, 2005. Specifically, the Examiner noted: "the added limitation of making a plurality of comparisons comprises running a test pattern a plurality of times and varying the controlled time further comprises varying the controlled time between runs of the test pattern as

further defined in claim 11 has not been found.” Accordingly, Applicants presented claim 11 in independent form including the limitation the Examiner has acknowledged is not found in the prior art. As with claim 19, the text of prior claim 1, with the minor clarifying amendments in lines 2 and 3 of element (b), has been incorporated into claim 11 so that it may stand as an independent claim. Accordingly, claim 11 now contains the very limitation highlighted by the Examiner as not found in the prior art. There is no basis for reversing the Examiner’s previous position that the limitation of claim 11 defines patentable subject matter and should be allowed.

The fact that the limitations of intervening dependent claim 7 were not incorporated into claim 11 should not alter this conclusion. The Examiner previously accorded the limitations of claim 7 no patentable significance. Further, the fact that minor clarifying amendments were made to claim 1 and also incorporated into claim 11 does not justify a conclusion that claims 11 defines a different species than claim 1. Accordingly, it is respectfully requested that the restriction requirement as to claim 11, and those claims that depend from it, be withdrawn.

Moreover, claims 1, 11 and 19, because they are all derived from prior claim 1, contain numerous similarities. Each recites, “providing as an input signal repetitions of the interval of the signal.” Each also recites, “making a plurality of comparisons of the value of the input signal to a threshold, each comparison being made at a controlled time relative to the start of a repetition of the interval, wherein making the plurality of comparisons includes varying the controlled time.” Also, each of the claims recites, “computing a duty cycle, based on the number of comparisons having a value in a predetermined range relative to the threshold.”

Each of claims 11 and 19 recites more limitations than claim 1. These differences give the claims a different breadth or scope of definition. But, because all three claims contain the same core limitations, a restriction is not proper. Rather, all three of the independent claims fall squarely within the directions of MPEP §806.03, which indicates restriction “should never be required” if the claims “are different definitions of the same disclosed subject matter, varying in breadth or scope of definition.”

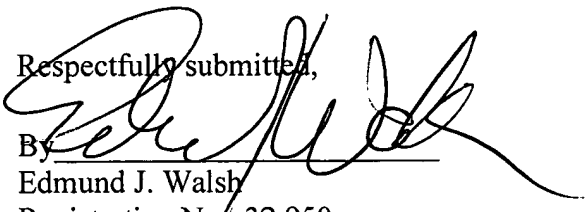
Accordingly, the Restriction Requirement should be withdrawn and all of the claims pending in the application should be allowed.

**Summary**

If the Examiner has any questions and believes that a telephone conference with Applicant's representative would prove helpful in expediting the prosecution of this application, the Examiner is urged to call the undersigned at (617) 646-8212.

Dated: May 24, 2006

Respectfully submitted,

  
By \_\_\_\_\_  
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